

AMENDED IN ASSEMBLY JULY 17, 2007

SENATE BILL

No. 734

Introduced by Senator Torlakson

February 23, 2007

An act to add *and to repeal* Sections 60050 and 60227-~~to~~ of the Education Code, relating to instructional materials, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 734, as amended, Torlakson. Instructional materials: reviews: fees.

(1) Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive. Existing law further requires the state board to ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with specified submission cycles.

This bill would reenact a provision that, until January 1, 2007, required the State Department of Education, prior to conducting a followup adoption, to notify all publishers and manufacturers known to produce basic instructional materials in that subject, that a fee will be assessed based on the number of programs the publisher or manufacturer indicates will be submitted. A review of a submission would be prohibited from being conducted until the fee is paid in full. The revenue derived from that fee would be continuously appropriated to the department and would be available to the department from year to year until expended. *These provisions would be repealed on January 1, 2011.*

(2) Existing law requires the ~~State Board~~ *state board*, in reviewing and adopting or recommending for adoption submitted basic instructional materials, to use specified criteria, and ensure that, in its

judgment, the submitted basic instructional materials meet all of the specified criteria, including, but not limited to, compliance with the specified requirements and guidelines for social content. Regulations establish the procedures for social content review, including, but not limited to, authorizing the State Department of Education or its agents to charge publishers and manufacturers a fee not to exceed the cost of the service for conducting a social content review, for including their instructional materials in the list of instructional materials that have been approved by the ~~State Board~~ *state board* for compliance with social content requirements, or both, if a publisher or manufacturer requests that their instructional materials be reviewed for compliance with social content requirements and those materials are not concurrently being submitted for adoption.

This bill would require the ~~State Board~~ *state board* to adopt regulations to govern the social content reviews conducted outside the primary and followup instructional material adoption processes. The department would be authorized to contract with agents to conduct the specified social content reviews. The department would be required to assess a fee for the review that meets specified requirements, including notice to publishers and manufacturers. The revenue derived from that fee would be continuously appropriated to the department and would be available to the department from year to year until expended. *These provisions would be repealed on January 1, 2011.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 60050 is added to the Education Code,
- 2 to read:
- 3 60050. (a) The ~~State Board~~ *state board* shall adopt regulations
- 4 to govern the social content reviews conducted at the request of a
- 5 publisher or manufacturer of instructional materials outside the
- 6 primary and followup instructional material adoption processes.
- 7 A social content review is intended to determine compliance with
- 8 Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5,
- 9 and 60200.6, and the guidelines for social content adopted by the
- 10 ~~State Board~~ *state board*.
- 11 (b) (1) For purposes of this section, social content reviews of
- 12 instructional materials shall be conducted by the department or its

1 agents for all instructional materials, as defined in subdivision (h)
2 of Section 60010.

3 (2) The department may contract with agents to conduct social
4 content reviews pursuant to this section.

5 (c) The department shall assess a fee for social content reviews
6 conducted pursuant to this section. The fee shall be established
7 and assessed pursuant to the requirements specified in subdivisions
8 (d) to (f), inclusive, of Section 60227, and the publishers and
9 manufacturers shall be provided notice of the establishment of the
10 fee pursuant to subdivisions (b) and (c) of Section 60227.

11 (d) Notwithstanding Section 13340 of the Government Code,
12 revenue derived from fees charged pursuant to subdivision (c) is
13 hereby continuously appropriated and available to the department
14 from year to year until expended. Revenue derived from fees
15 charged pursuant to subdivision (c) may be used to pay costs
16 associated with the social content review of instructional materials.

17 (e) *This section shall remain in effect only until January 1, 2011,*
18 *and as of that date is repealed, unless a later enacted statute, that*
19 *is enacted before January 1, 2011, deletes or extends that date.*

20 SEC. 2. Section 60227 is added to the Education Code, to read:

21 60227. (a) For purposes of this section, a followup adoption
22 is any adoption other than the primary adoption that occurs within
23 a six- or eight-year cycle established pursuant to subdivision (b)
24 of Section 60200.

25 (b) Before conducting a followup adoption in a given subject,
26 the department shall provide notice, pursuant to subdivision (c),
27 to all publishers or manufacturers known to produce basic
28 instructional materials in that subject, post an appropriate notice
29 on the Internet Web site of the department, and take other
30 reasonable measures to ensure that appropriate notice is widely
31 circulated to potentially interested publishers and manufacturers.

32 (c) The notice shall specify that each publisher or manufacturer
33 choosing to participate in the followup adoption shall be assessed
34 a fee based upon the number of programs the publisher or
35 manufacturer indicates will be submitted for review and the number
36 of grade levels proposed to be covered by each program.

37 (d) The fee shall offset the cost of conducting the followup
38 adoption process and shall reflect the best estimate of the cost by
39 the department. The department shall take reasonable steps to limit
40 costs of the followup adoption and to keep the fee modest,

1 recognizing that some of the work necessary for the primary
2 adoption need not be duplicated.

3 (e) The department, prior to incurring substantial costs for the
4 followup adoption, shall require that a publisher or manufacturer
5 who wishes to participate in the followup adoption first declare
6 the intent to submit one or more specific programs for the followup
7 adoption and specify the specific grade levels to be covered by
8 each program. After a publisher or manufacturer has declared the
9 intent to submit one or more programs and the grade levels to be
10 covered by each program, a fee shall be assessed by the department.
11 The fee shall be payable by the publisher or manufacturer even if
12 the publisher subsequently chooses to withdraw a program or
13 reduce the number of grade levels covered. A submission by a
14 publisher or manufacturer shall not be reviewed for purposes of
15 adoption, either in a followup adoption or in any other primary or
16 followup adoption conducted thereafter, until the fee assessed has
17 been paid in full.

18 (f) (1) It is the intent of the Legislature that the fee not be so
19 substantial that it prevents small publishers or manufacturers from
20 participating in a followup adoption.

21 (2) Upon the request of a small publisher or manufacturer, the
22 ~~State Board~~ *state board* may reduce the fee for participation in the
23 followup adoption.

24 (3) For purposes of this section, “small publisher” and “small
25 manufacturer” mean an independently owned or operated publisher
26 or manufacturer that is not dominant in its field of operation, and
27 that, together with its affiliates, has 100 or fewer employees, and
28 has average annual gross receipts of ten million dollars
29 (\$10,000,000) or less over the previous three years.

30 (g) Notwithstanding subdivision (b) of Section 60200, if the
31 department determines that there is little or no interest in
32 participating in a followup adoption by publishers and
33 manufacturers, it shall recommend to the ~~State Board~~ *state board*
34 that the followup adoption not be conducted, and the ~~State Board~~
35 *state board* may chose not to conduct the followup adoption.

36 (h) Notwithstanding Section 13340 of the Government Code,
37 revenue derived from fees charged pursuant to subdivision (e) is
38 hereby continuously appropriated and available to the department
39 from year to year until expended. Revenue derived from fees
40 charged pursuant to subdivision (e) may be used to pay costs

1 associated with any followup adoption and any costs associated
2 with the review of instructional materials.

3 *(i) This section shall remain in effect only until January 1, 2011,*
4 *and as of that date is repealed, unless a later enacted statute, that*
5 *is enacted before January 1, 2011, deletes or extends that date.*

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